REMARKS

Claims 22-23 and 25-38 are pending in the application. Claims 25, 32, 34 and 37 are amended, and claim 38 is cancelled. Claims 22-23 and 25-37 are now pending. Favorable reconsideration and allowance of this application is respectfully requested in light of the amendments and the foregoing remarks.

1. Rejections under 35 U.S.C. 112, second paragraph

Claims 25 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Specifically, the Examiner indicates that "said first pivoting location" as recited in both claims 25 and 32 lacks proper antecedent basis. Applicant has amended claims 25 and 32 to provide the proper antecedent basis. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

2. Rejections in view of cited prior art

The Examiner rejected claims 27-28 and 34-36 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,590,721 to Van Mill (herein the "Van Mill patent"). Claims 22-23, 25-26, and 29-33 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the Van Mill patent in view of U.S. Patent No. 3,648,780 to Fueslein et al. (herein the Fueslein et al. patent). Applicant respectfully traverses the rejection for the following reasons.

Claim 22 recites a method of tilling soil, comprising the steps of (a) pulling a seedbed preparation implement in a draft direction; during the step (a), plowing the soil using a plurality of plow shanks mounted on a mainframe of said seedbed preparation implement; during the step (a), cutting and turning the soil using a plurality of rotating

discs of a disc gang supported by a main beam, said main beam being pivotally connected with respect to said mainframe, said discs rotating about a common axis that extends at a gang angle relative to a perpendicular to said draft direction, and adjusting said gang angle by moving said disc gang relative to said mainframe, the adjustment being infinite through a designated range of at least 3°, the adjusting step further comprising actuating an actuator extending wholly between said main beam and said mainframe.

The Examiner acknowledges that the Van Mill patent does not disclose, *inter alia*, the recited adjusting step further comprising ***actuating an actuator extending wholly between said main beam and said mainframe*** (See page 4 of Office Action dated July 15, 2005).

To correct this deficiency, the Examiner mistakenly cites the Fueslein et al. patent as disclosing the alleged actuator disposed wholly between the alleged main beam and alleged main frame (Id.). The hydraulic cylinder 97/98 disclosed in the Fueslein et al. patent is not disposed "wholly between" the beams 26, 32 and frame assembly 14 because the frame assembly 14 and beams 26, 32 intersect one another (See Fig. 2). The ordinary meaning of "between" is defined as "in the time, space, or interval that separates" (See Merriam-Webster Online Dictionary (2005)). There is no distance separating the beams 26, 32 and the frame assembly 14 disclosed in the Fueslein et al. patent. Thus, the Fueslein et al. patent does not correct the noted deficiency of the Van Mill patent.

Moreover, one of ordinary skill in the art would not have been motivated to take the teachings of Fueslin et al. patent and apply them to the Van Mill patent. If one were to replace the alleged actuator 124 disclosed in the Van Mill patent with the hydraulic cylinder 97, 98 disclosed in the Fueslein et al. patent, the hydraulic cylinder would still not extend wholly between the main beam and the mainframe as recited in claim 22. The hydraulic cylinder would need to be disposed at the rearward end of the implement as the hand-operated actuator 124 (which the Examiner has already admitted is not "wholly between" on page 4 of the Office Action dated July 15, 2005) so as to slide the weldment 123 within the tube as the alleged actuator 124 (*see* Van Mill patent, col. 5, lines 1-12). To do otherwise would be to pick and choose amongst the teachings of the prior art, using applicant's own disclosure as a template or mosaic to latch on to those teachings that support the Examiner's position while ignoring those that do not. The Federal Circuit has held that a rejection based on obviousness cannot be predicated upon such an approach:

> It is impossible with the framework of Section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of the other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art.

In re Hedges, 228 USPQ 685, 687 (Fed. Cir. 1986), citing *In re Wesslau*, 3147 USPQ 391, 393 (CCPA) 1965; *see also* MPEP § 2143.

For at least these reasons, the references alone or in combination fail to teach or suggest the method of claim 22. Therefore, the Examiner has failed to provide a prima

facie case of obviousness based on the cited references. Accordingly, reconsideration and allowance of claim 22 is respectfully requested.

Claims 23, 25-26, and 29-33 depend either directly or indirectly from claim 22 and are believed allowable for the same reasons that claim 22 is believed allowable. Claims 23 and 25-26 also include patentable subject matter in addition to claim 22. For example, none of the cited references teach or suggest the step of sliding a pin in an elongated slot on said mainframe, said pin disposed at a location ***outwardly disposed from a first pivoting location relative to an axis extending centrally through said mainframe along said draft direction***, as recited in claim 25. Rather, the Van Mill patent discloses the alleged pin/slot 121 located inwardly disposed from a pivoting location 102 relative the central axis of the mainframe. It is apparent this distinction gives the implement of the invention a distinct advantage in being able to align adjacent disc gangs at a common gang angle that is not possible with the Van Mill implement. In another example, none of the cited references disclose the main beam and disc gang located forward of the main frame relative to the draft direction, as recited in claim 31. In yet another example, ***none of the cited references disclose the sliding pin located at an outer end portion of the main beam relative to the central longitudinal axis of the mainframe***, as recited in claim 33.

Claim 27 recites a method of tilling soil that includes the steps of cutting and turning the soil using a plurality of rotating discs of a disc gang mounted on a main beam coupled to a front portion of the mainframe. The Van Mill patent does not disclose the alleged disk gangs 108, 112 located forward of the alleged mainframe 101.

Rather, the alleged disk gangs disclosed in the Van Mill patent are located rearward of the alleged mainframe 101 (See Fig. 2). The Examiner mistakenly alleges the forward end of the Van Mill implement. However, the Van Mill patent clearly indicates that the hitch 34 is at the forward end 36 of the implement (*see* Figs. 1, 2 and 4 and col. 3, 13-35), opposite of that alleged by the Examiner (*see* page 3 of Office Action dated July 15, 2005).

Claim 27 further recites that the cutting and turning step is performed with an alleged disc support beam that is located in front of a main beam and that is coupled to the main beam so as to move therewith. Rather, the Van Mill patent discloses the alleged disk gang located rearward of the alleged main beam (See Fig. 2).

In view of the above, the Van Mill patent fails to disclose each and every limitation of claim 27. Accordingly, reconsideration and allowance of claim 27 is respectfully requested.

Claims 28 and 34-36 depend either directly or indirectly from claim 27 and are believed allowable for the same reasons that claim 27 is believed allowed.

Claim 37 is amended to incorporate the limitations of claim 38, now cancelled. No new matter is added. Claim 37 as amended recites a method of tilling soil that includes, *inter alia*, the steps of adjusting said gang angle of said adjacent disc gangs so as to pivot said support structure about a vertical axis to thereby bring said adjacent disc gangs into alignment, wherein said support structure comprises a main beam that is coupled to a front portion of said mainframe and a disc support beam that is located in front of said main beam that is coupled to said main beam so as to move therewith. The

Van Mill patent does not disclose disc gangs capable of alignment at a common gang angle relative to the draft direction. Rather, the location of the disclosed pins 122 and slots 119 and 121 along the same tube makes alignment of the alleged adjacent disc gangs 112 impossible. To correct this deficiency, the Examiner cites to the Clifford et al. patent as disclosing adjacent disc gangs capable of alignment. However, none of the cited references disclose where a disc support beam is located in front of the main beam that is coupled to the main beam so as to move therewith, relative to the draft direction. Thus, the cited references fail to disclose each and every limitation of claim 37 as amended. Accordingly, reconsideration and allowance of claim 37 is respectfully requested.

CONCLUSION

It is submitted that claims 22-23 and 25-37 define patentable subject matter. A Notice of Allowance is therefore respectfully requested.

No fee is believed due with this communication. Nevertheless, should the Examiner consider any other fees to be payable in conjunction with this or any future communication, authorization is given to direct payment of such fees, or credit any overpayment to Deposit Account No. 50-1170.

The Examiner is invited to contact the undersigned by telephone if it would help expedite matters.

Respectfully submitted,

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